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## **REMARKS/ARGUMENTS**

### **Introduction**

The Examiner has rejected claims 1-5, 9-13 and 15-18, which represent all the currently pending claims in the application. Based on the remarks below, reconsideration and withdrawal of the rejection are respectfully requested.

### **Rejections under 35 U.S.C. §112**

The Examiner has rejected claims 1-5, 9-13 and 15-18 under 35 U.S.C. §112, first paragraph as containing subject matter which was not described in the specification in such as way to enable one skilled in the art to which it pertains, or with which is it most easily connect, to make and/or use the invention. The rejection is respectfully traversed.

More specifically, the Examiner referred to the Response dated December 19, 2002, which stated, "By the way of explanation, the specification on page 7, lines 19-22 defines the term **non-continuous** as a tubular body which is substantially uninterrupted along its length." The Examiner states, "However, this makes no sense since a tubular body which is substantially uninterrupted along its length is continuous rather than non-continuous."

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Typographical errors in the previous Response appears to have inadvertently created confusion for the Examiner. The Response should have stated "non-continuous is a tubular body which is not substantially uninterrupted along its length" as disclosed in the specification (page 7, line 14-15). The term non-continuous as defined in the application has the opposite meaning from the term continuous also defined in the application (page 6, line 23 - 24).

Continuous is defined in the specification as a tubular structure whose surface extends substantially uninterrupted throughout the longitudinal length thereof. Therefore, non-continuous is a tubular structure whose surface extends not substantially uninterrupted through the longitudinal length thereof. A non-continuous tubular body is shown in the Figures 1-4. For example, non-continuous is identified with second bodies 4, 5, 7, 8, 10, 11 and 13 as shown in Figures 1-4 because at some point along the length of the tubular structure the surface is interrupted (page 7, lines 8-13, line 19-22 and page 8, lines 10-12).

The Examiner further states:

The last sentence on page 4 of the remarks filed March 17, 2003 is still not understood. If bodies 7 and 10 are continuous around the entire circumference of the tubular body, then is not seen how it can be considered a "strips." If they are "perimetrically non-continuous", does that mean that each of the 3 segments at 7 in Figure 2 and each of the 6 segments at 10 in Figure 3 may have a structure similar to that shown at 4 in Figure 1. If so, where does the original disclosure disclose this? As to the remarks filed August 13, 2003, the original disclosure is still unclear as to the meaning

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of the terms discussed above. Further, the reference to Figure 5 on page 4 of the remarks is not understood since no Figure 5 exists in this application. The statement on page 4 that 7 shows strips arranged longitudinally adjacent to form a tubular structure is not understood. Does this mean that each strip is actually a complete short tube?

“Strips” in the application is used to describe the shape of the material of construction. Therefore, the PTFE strip may be used to form a tubular body 4 or 5 where the strips are arranged circumferentially adjacent to form a tubular structure, Figure 1 or 2, respectively. Further, a “strip” may be used to form a helical pattern such as shown in Figures 3 and 4 respectively (page 7, lines 8-10; page 8, and lines 10-12). Furthermore, a “strip” may be used to form a tubular structure where the “strip” is used to form a segment in a continuous cylindrical defining the circumference of the tubular body. As shown in Figure 3, multiple segments are arranged longitudinally to form the tubular body or second body 10.

Thus, the term “strip” is used to describe the shape of the material of construction used to form the various tubular structures not the shape of the tubular structures themselves.

Further, “perimetrically” is limitation of the term “non-continuous”. “Perimetrically” limits non-continuous to the circumferential direction. Therefore, “perimetrically non-continuous” means at no place is there circumference continuity along the length of the tubular

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body, as shown in components 4 and 5 of Figure 1 and 2, respectively, components 11 and 13, in Figure 4.

Furthermore, a "strip" which forms a segment may also be "perimetrically non-continuous". The segment is not continuous around the circumference of that segment, similar to second body 7 as shown in Figure 2, and further disclosed on page 8 lines 8-10.

Additionally, the Examiner has rejected claims 1-5, 9-13, and 15-18 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the inventor. The rejection is respectfully traversed.

Specifically, the Examiner states:

The meaning of the terms "non-continuous" and "perimetrically non-continuous" is unclear for reasons set forth above.

The above arguments pertaining to 35 U.S.C. 112, first paragraph, equally applies here. As above-discussed, the terms "non-continuous" and "perimetrically" are defined in the specification and figures, and the previous Responses' typographical errors and confusion have been clarified above.

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Applicants believe that the claims as currently standing comply with the requirements of 35 U.S.C. §112, first paragraph and second paragraph. The rejection is therefore respectfully traversed. Reconsideration and withdrawal of the rejection under 35 U.S.C. §112, first paragraph second paragraph, is respectfully requested.

**Rejections under 35 U.S.C. §103**

The Examiner has rejected claims 1-5, 9-13, 15 and 17 under 35 U.S.C. §103(a) as being unpatentable over European Patent No. 0893108 to Ray. The Examiner states:

the reference to "Longitudinally extending strips" in col. 9, lines 18-21 of Ray clearly refers to strips that extend along (parallel to) the longitudinal axis of the prosthesis since such strips are "Longitudinally extending". Further, the use of this phrase rather than the term "helical" (which is used to describe other embodiments) indicates that a structure other than helical is intended. It would have been obvious that these strips are non-overlapping since the strips shown in the Figures are non-overlapping.

Applicant respectfully traverses the rejection. Ray discloses a helical coupling member throughout the disclosure. Ray's intent of the coupling member is to provide increased flexibility and increased kink resistance, and reduces shear stress upon longitudinal bending. (col. 4, lines 10-13); (col. 7, lines 32-37). Ray discloses a helical construction which satisfies Ray's intentions of the invention as shown in Figure 6, (col. 8, lines 13-16; col. 7, line 50 through col. 8, line 3).

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Ray discloses an example of a configuration which is within the scope of his invention which is a multi-helix coupling member using longitudinally extending strips of ribbon (col. 9, lines 13-21). The longitudinally extending strips of ribbon may be used in forming the double or triple helix as suggested by Ray. Ray fails to disclose, teach or suggest a second tubular body arranged longitudinal in non-overlapping relation secured to the first tubular body whereby axial and radial compliance is provided, as in claim 1 and 17.

The Examiner appears to have removed the phrase "longitudinally extending strips" from the context of the paragraph and developed new meaning outside of Ray's disclosure. The Examiner derives that "longitudinal" means being "parallel to". However, longitudinal is not synonymous for the term parallel. In fact, according to Merriam-Webster's Online Dictionary, 10th Edition, longitudinal is defined as "of or relating to length or the lengthwise dimension". The Examiner further derives that "longitudinal" indicates a structure other than helical was intended. However, no where in the specification, including the drawing, teach or suggest the Examiner's allegations.

The Examiner alleges Ray additionally provides for a coupling member which is similar to the second tubular body, as in claim 1. However, Ray fails to disclose, teach or suggest this

substitution. Additionally, should one substitute the coupling member with the second tubular body as in claim 1, Ray's original intent would be destroyed.

Assuming *arguendo*, that Ray may be modified to a hypothetical invention which substitutes Ray's coupling member with the second tubular body of claim 1, being a plurality of elongated strips arranged longitudinally in a non-overlapping relationship, this hypothetical invention destroys Ray's intent and purpose of his invention.

For example, as shown in Fig. 6, Ray intended to provide a coupling member which provides increased flexibility and absorbs stress when bent along its longitudinal axis and resist kinking. (Col. 4, lines 10-13).

However, the hypothetical invention fails to provide improved flexibility and reduced stress along the longitudinal axis. In fact, the hypothetical invention increases rigidity and stiffness along the longitudinal axis because the strips are arranged and secured longitudinally along the longitudinal axis to the stent-graft. The degree of longitudinal flexibility is limited by the flexibility and stretchability of the attached strips.

Additionally, Ray intended to reduce shear stress between the stent and coupling member when the stent-graft is bent (col. 7, lines 32-37). Ray is directed to a helical design which provide for stress-relief zones. The stress-relief zones, as disclosed by Ray, are designed absorb the stress in the radial when bending the stent-graft, as shown in Fig. 6 (Col. 4, lines 10-13). However, the hypothetical invention fails to provide stress-relief zones because longitudinal strips extend the length of the stent-graft and do not provide for radial spacing. Therefore, when the hypothetical invention is bent shear stress fails to be reduced, as Ray intended.

In fact, Ray teaches away from covering the stent-graft with longitudinal strips (col. 8, lines 17-34). Ray discloses that the wider the strips, which are wound around the stent-graft (see Figures 1-8); the more area is covered longitudinally along the stent-graft preventing flexibility and increasing stiffness and destroying Ray's intent. The hypothetical invention provides a strip secured and covering the entire area longitudinally along length of the stent-graft which diminishes flexibility and increases stiffness as disclosed in Ray. Therefore, Ray teaches away from the hypothetical invention because it destroys Ray's intent.

Claim 17 is directed to a method of providing axial and circumferential compliance to intraluminal prostheses stent-graft composite. Ray fails to disclose, teach or suggest the method of claim 17 of the present invention. The Examiner additionally fails to set forth the relevant

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teaching relied upon (col. or page); the difference in claim as applied to the reference; explanation why one of ordinary skill in the art at the time the invention was made would be motivated to make the proposed modification. The above-argument directed to claim 1 equally applies to claim 17, because claim 17 is directed to strips in a non-overlapping relationship, lengthwise along the length of the first body and support structure to form the tubular shaped second body, which is not show in Ray.

Thus, Examiner's allegations based on the disclosure can only be considered conjecture at best. Ray fails to disclose, teach or suggest the invention as in claim 1-5, 9-13, and 17. The Examiner has, therefore, failed to make a *prima facie* case of obviousness. Reconsideration is respectfully requested.

As claims 2-5, 9-13, 15 depend from claim 1, the above argument equally applies thereto. Further, the Examiner has directed Applicant to col. 10, lines 42-46, in reference to claim 6, however, claim 6 has previously been canceled.

The Examiner has further rejected claims 16 and 18 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,398,803 to Layne et al. More specifically, the Examiner states:

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Although only a portion of the Layne body is used to meet the terms of the claims, the claims do not preclude this.

The rejection is respectfully traversed.

The Examiner alleges Layne shows a "set of circumferentially arranged strips extending between openings 44 of the outer lacey graft." However, Layne fails to disclose, teach, suggest or show in the Figures strips as in claim 16 and 18. Instead, Layne discloses "lacey or slitted grafts" that have openings in the graft (col. 5, lines 29-30). Laynes' slitted graft is not strips which are secured to the support structure as in claim 16 and 18. Laynes's slitted graft is a graft having punch-outs or cut-outs (44) as shown in Figure 2. Claims 16 and 18 are directed to strips, not a tubular body with holes, which make up the tubular body. The strips are arranged in a non-overlapping relationship and secured to the support structure. Layne fails to teach, suggest, or show anything to them to a graft having holes therethrough.

Furthermore, Layne discloses the inner and outer grafts as overlapping (col. 5, lines 34-36). However, the invention as recited in claims 16 and 18, include strips within each tubular body arranged in non-over-lapping relationship.

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Layne fails to disclose, teach or suggest the present invention as claimed in claims 16 and 18. The Examiner has failed to make a *prima facie* case of obviousness. Withdrawal and reconsideration is respectfully requested.

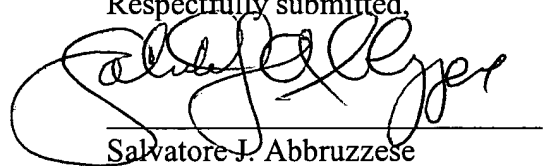
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**SUMMARY**

Applicant respectfully submits that claims 1-5, 9-13 and 15-18 are patentably distinct. This application is believed to be in condition for allowance. Favorable action thereon is therefore respectfully solicited.

Should the Examiner have any questions or comments concerning this application or this amendment, he is invited to contact the undersigned counsel.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Salvatore J. Abbruzzese', is written over a horizontal line.

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